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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

NICHOLAS AGBABIAKA,

Plaintiff,

No. C 09-03982 JSW

v.

**ORDER DISMISSING WITHOUT
PREJUDICE FOR FAILURE TO
PROSECUTE**HSBC BANK USA NATIONAL
ASSOCIATION, et al.,

Defendants.

On October 8, 2009, Defendants Litton Loan Services and HSBC Bank USA filed a motion to dismiss, a motion to strike, and a motion to expunge lis pendens, and noticed each of those motions for hearing on November 13, 2009. On October 9, 2009, this Court issued an Order continuing the hearing and setting a briefing schedule, by which Plaintiff's opposition briefs to the motions were due on October 30, 2009. As of November 3, 2009, Plaintiff had not filed an opposition to the motion or filed a request to extend the time by which the opposition briefs could be filed.

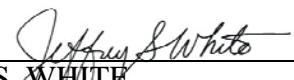
Thus, on that date, the Court issued an Order to Show Cause why the motions should not be granted as unopposed or why this matter should not be dismissed for failure to prosecute. In the Court's Order to Show Cause, the Court advised Plaintiff that failure to respond to the Order to Show Cause might result in the Court's ruling on the motions as unopposed or dismissing the action for failure to prosecute without further notice to Plaintiff.

1 Plaintiff's response to the Order to Show Cause was due by no later than November 10,
2 Plaintiff has not responded to the Order to Show Cause, has not filed oppositions to the
3 Defendants' motions, and has not sought an extension of time to respond.

4 Accordingly, the Court shall dismiss this matter without prejudice for failure to
5 prosecute. The Clerk is directed to close the file.

6 **IT IS SO ORDERED.**

7
8 Dated: November 12, 2009


9 JEFFREY S. WHITE
10 UNITED STATES DISTRICT JUDGE